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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,076	02/15/2002	John R. Hare	POU920020016US1	6860
46369	7590	07/03/2006	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			REFAI, RAMSEY	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/078,076	Applicant(s) HARE ET AL.	
	Examiner Ramsey Refai	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Responsive to Amendment April 7, 2006. Claims 1, 3, and 4 were amended. Claim 5 has been canceled. Claims 6-19 have been newly added. Claims 1-4 and 6-19 are now presented for examination.

Response to Arguments

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4 and 6-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Knop et al (U.S. Patent No. 6,885,644).

The applied reference has a common assignee and a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

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4. As per claim 1, Knop et al teach a method for detecting the quick restart of liveness daemons in a distributed, multimode data processing system in which nodes communicate liveness indicia in the form of heartbeat signals via adapters coupled to each node, said method comprising:

subsequent to a quick restart at one node of a membership group, receiving a signal from at least one other node of the membership group at the one node experiencing the quick restart, wherein the quick restart deletes locally stored membership group information at the one node (column 5, lines 54-62);

sending, from the one node to the at least one other node a first message which includes at least indicia of occurrence of the quick restart at the one node, the sending being responsive to receipt of the signal at the one node (column 5, lines 42-67); and

determining at the at least one other node, from said indicia of occurrence of said quick restart and from locally stored membership group information indicating prior membership of the one node in the membership group, the existence of a quick restart at said one node, and responding thereto by sending a second message from the at least one other node to another node of the membership group which indicates that said one node is to be expelled from the membership group (column 5, lines 42-67).

5. As per claim 2, Knop et al teach said second message is sent by the node that is next in line for receipt of heartbeat signals, with respect to the node that sent the first message (column 5, lines 54-62).

6. As per claim 3, Knop et al teach wherein the membership group is an adapter membership group, and in which said quick restart indicia are selected from the group consisting of: (1) an indication that the one node and the at least one other node are not both in the adapter membership group; (2) an indication that the one node's address is

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part of the adapter membership group according to said at least one other node; and (3) an indication of difference in instantiation number for the sender's one node's adapter ID listed in the adapter membership group (column 5, lines 36-50, column 6, lines 54-67).

7. As per claim 6, Knop et al teach wherein the quick restart indicia includes each of; (1) an indication that the one node and the at least one other node are not in the adapter membership group; (2) an indication that the one node's address is part of the adapter membership group according to the at least one other node; and (3) an indication of difference in instantiation number for the one node's adapter ID listed in the adapter membership group (column 6, lines 10-67).

8. As per claim 7, Knop et al teach wherein the first message comprises a PROCLAIM message (column 6, lines 10-20).

9. As per claim 8, Knop et al teach wherein the signal comprises a "HEARTBEAT" message, the first message comprises a "NOT YOUR NEIGHBOR" message, and the second message comprises a "DEATH" message, wherein the at least one other node forwards the "DEATH" message to a group leader node of the membership group (column 5, line 55, column 6, line 62).

10. As per claim 4, and 9-19, these claims contain similar limitations as claims 1-3 and 6-8 above, therefore are rejected under the same rationale.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are cited in the *Notice of Reference Cited form (PTO-892)*.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

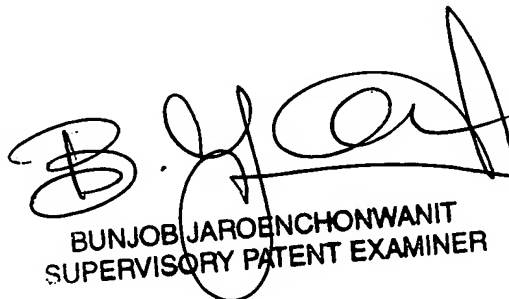
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai
Examiner
Art Unit 2152
June 28, 2006



BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER